

CALON
EV

2017



3 1761 11892548 6



YOUR GUIDE TO THE ENVIRONMENTAL APPEAL BOARD





Printed on recycled paper
ISBN 0-7778-0700-9
Existe également en français.

❖ YOUR GUIDE TO THE ENVIRONMENTAL APPEAL BOARD ❖

THIS GUIDE IS INTENDED AS A GENERAL OVERVIEW OF THE ENVIRONMENTAL APPEAL BOARD AND ITS RESPONSIBILITIES AND FUNCTIONS UNDER THE ENVIRONMENTAL PROTECTION ACT, ONTARIO WATER RESOURCES ACT AND THE PESTICIDES ACT. FOR MORE INFORMATION YOU MAY WANT TO REFER TO THE OFFICIAL COPIES OF THE APPROPRIATE ACT, THE BOARD'S GUIDELINES OF PRACTICE AND PROCEDURE, OR ASK THE BOARD STAFF FOR HELP.

THE ENVIRONMENTAL APPEAL BOARD IS A TRIBUNAL WHICH IS SEPARATE FROM AND TOTALLY INDEPENDENT OF THE MINISTRY OF THE ENVIRONMENT AND ALL OTHER GOVERNMENT DEPARTMENTS.

AT PRESENT, THE BOARD HAS NO FORMAL WRITTEN RULES OF PRACTICE. THIS GUIDE REFLECTS THE BOARD'S CURRENT PRACTICES AND THE BOARD'S GUIDELINES OF PRACTICE AND PROCEDURE. THESE GUIDELINES ARE AVAILABLE FROM THE BOARD.

TABLE OF CONTENTS

Introduction	1
The Laws	1
What is the Environmental Appeal Board?	2
Who can Appeal?	3
How can I appeal?	4
What happens then?	5
Postponements and Adjournments	5
How can neighbours and other Concerned citizens participate?	6
Requests for Special Assistance	6
Communication with Board Members	7
Proceedings before the Hearing Commences	7
Stay Applications	7
Other Motions	8
Pre-Hearing Conferences	8
Settlement Conferences	9
Sharing Information	9
Preparing for the Hearing	10
Opening Statement	10
Papers	10
Photographs	10
Witnesses	10
Must a person have a Lawyer or other representative?	11
Language of Hearings	11
Where are the hearings held?	11
Who will attend the hearing?	12
Will there be a transcript of the hearing?	12
Parties	12

What Happens at the Hearing?	13
Media	15
The Decision of the Board	15
Distribution	16
Can I appeal the Board's decision?	16
What other recourse do I have?	16
Summary	17
Costs	17
Caution	17
Other sources of information	18

INTRODUCTION

Since it passed the Environmental Protection Act in 1971, the Government of Ontario has reflected the increasing concerns of provincial residents by making laws and regulations to protect our natural environment. Five different acts, the Environmental Protection Act, the Ontario Water Resources Act, the Pesticides Act, the Environmental Assessment Act, and the Waste Management Act, give the Ministry of the Environment the responsibility of ensuring that our activities as residents of Ontario do not:

- ❖ harm the natural environment or human health;
- ❖ damage property or interfere with the conduct of business because of pollution;
- ❖ cause material discomfort or produce unsafe conditions;
- ❖ affect the continued enjoyment of property.

The purpose of the acts is to provide for the protection and conservation of the natural environment by regulating activities which may harm it.

The Environmental Appeal Board has responsibilities under the Environmental Protection Act, Ontario Water Resources Act, and Pesticides Act. Other ministries have the primary responsibility for other aspects of environmental protection such as soil conservation, flood control, energy conservation, and preservation of natural resources.

THE LAWS

An act is a bill passed by the provincial legislature. The individual acts have subordinate "regulations" which are made by the Lieutenant-Governor-in-Council (the Cabinet). These regulations flesh out the powers and obligations of regulatory agencies and the rights and responsibilities provided for in the acts. The regulations contain detailed codes of conduct, standards, and procedures.

The **Environmental Protection Act**, the **Ontario Water Resources Act** and the **Pesticides Act** are the legal foundation for protecting the natural environment in Ontario. These acts, their regulations

and standards set limits for pollution as well as contain tools for preventing and controlling pollution and set out the penalties for convicted polluters. The Ministry of the Environment vigorously enforces these laws.

It is the responsibility of the public official referred to in each of the acts as a Director to ensure that the spirit and intent of the act and its regulations is carried out by the Ontario residents. In practice, there are many Directors. These Directors are individuals located throughout Ontario and usually are employees of the Ministry of the Environment. In some areas, the responsibilities of the Ministry of the Environment are delegated to a local public health unit and the local medical officer of health or other officials in the health unit are designated as Directors. In particular, Part VIII of the Environmental Protection Act, regulating private sewage systems, is administered by the health units, rather than the Ministry, in many parts of the province.

The Directors' responsibilities are varied, they include: issuing Certificates of Approval, permits and licences, as well as pollution control and prevention orders.

Since 1971, the acts have provided a method for individuals, companies and governmental agencies that are dissatisfied with decisions of Directors to appeal these decisions to an impartial tribunal - the Environmental Appeal Board.

WHAT IS THE ENVIRONMENTAL APPEAL BOARD?

The Environmental Appeal Board is an independent body, whose members are appointed by the Cabinet of the Ontario government by order-in-council. None of the members of the Board are employees of the Ministry of the Environment or of any other government department. Most of the members serve on the Board on a part-time basis.

The members are drawn from all walks of life, and include business people, scientists, and lawyers. They usually have a background of involvement in environmental issues and have demonstrated a concern for environmental quality, either in their profes-

sional capacity or through activities in their community. The government also tries to ensure that members live in and reflect the values and concerns of all regions of the province.

The Board operates as an adjudicative tribunal. That means it holds public hearings for an appeal made to the Board. The hearing gives the person who is directly affected by a decision of the Director, the Director, and affected members of the public an opportunity to present their case to the Board. Each hearing by the Board is a new hearing; that is, the Board makes its decision based solely on the evidence presented at the hearing.

The Board evaluates the information presented to see whether the actions of the Director conform with the spirit and intent of the acts and regulations. The Board must follow the legislation. It is not required to follow ministry policies and guidelines, but it does take them into account and does not override them without good reason.

The Board then makes a decision. This decision may agree with, change or disagree with the action of the Director. The Board may also direct the Director to take action; for example, the Board may direct the Director to issue an approval that the Director initially refused to issue. In these cases, the Board may substitute its opinion for that of the Director.

WHO CAN APPEAL?

Any person, company or government agency which:

- ❖ has been refused a licence, permit or approval;
 - ❖ had a licence, permit or approval issued with conditions, amended, or has had new terms and conditions added to it;
 - ❖ has had a licence, permit or approval suspended or revoked;
 - ❖ has been refused a renewal of licence, permit or certificate of approval;
 - ❖ has been issued an order to prevent or control pollution;
- may appeal this decision or order to the Board.

The legislation refers to this person as "the applicant".

HOW CAN I APPEAL?

Currently, the acts specify that your appeal of an order or decision of a Director must be sent to the Director and to the Board within 15 days of receiving notification of the Director's action.

Unless this has been done, under the Environmental Protection Act and parts of the Ontario Water Resources Act the Board has no authority to hold a hearing unless the Board is satisfied that the notice of appeal was submitted late because service of the order or decision on the person to whom it is addressed did not give him or her sufficient notice of the order or decision. In appeals from well construction decisions under the Ontario Water Resources Act and under the Pesticides Act, the Board has greater leeway to extend the time for filing an appeal.

To file an appeal, you must send a letter to the Environmental Appeal Board and a copy to the Director. This letter must state that you are appealing the decision of the Director and give the reasons for doing so. The reasons should be specific. Reasons such as, the Director was wrong to make this order or decision, are not acceptable, and result in a delay in scheduling your appeal or possibly the dismissal of your appeal.

You must state clearly why the Director should not have made the decision or issued the order. Along with your letter of appeal, you must send the Board a photocopy of the order, letter of refusal, certificate of approval, or other decision of the Director which you are appealing.

For convenience, a form is available from the Board and from some Directors, that can be used for the appeal. Although you are not required to use these forms, you are required to supply all the information which the form lists. The advantage of using the form is that you will have some confidence that your application for an appeal is complete. Letters may be sent to the Board's office by mail or fax. Be sure you comply with the 15-day time limit set out in the acts.

In some cases, a person may accept part of a decision and appeal other parts. In such cases, the letter should state clearly each

portion of the order or decision that is being appealed and the reason for appealing each portion.

WHAT HAPPENS THEN?

After receiving your letter of appeal, the Board will write to you and acknowledge receipt of your appeal. The Board may also request further information. If you have not included with your appeal a copy of the order or decision that prompted you to file an appeal, the Board will request this. The Board will also ask you or the Director to send any background information necessary to understand the issues raised by your appeal to the Board, as well as a list of the names and addresses of the owners of the properties in the immediate vicinity of the property or facility which is the subject of the appeal, and the names and addresses of the clerks of the local municipality (city, town, village or hamlet), the township, and the county or regional municipality.

When at least ten days have passed since you served your notice of appeal, you may contact the Board to set a date for the hearing of the appeal. The Board will schedule a hearing after receiving the information listed above. If neither the applicant nor the Director has contacted the Board within a reasonable time to request a hearing date, the Board will contact both of them to schedule a hearing.

When arranging a hearing it is the practice of the Board staff to obtain from each of the parties an estimate of the time they expect will be required for the hearing.

POSTPONEMENTS AND ADJOURNMENTS

Once the parties have agreed on a date for a hearing, they are expected to stick to it. All hearings are considered peremptory; that is, once the parties have agreed to a specific date for a hearing, it will proceed on that date except in exceptional circumstances, such as the sudden illness of a party. If a party has been notified of the time, date and place of a hearing and fails to attend the hearing, the Board may proceed with the hearing and make its decision in the absence of that party.

If a party does require an adjournment of a scheduled hearing, he or she must advise all other parties and obtain their consent to the adjournment before asking the Board to adjourn the hearing. Unless the other parties consent to the adjournment, the Board staff do not usually cancel the hearing. It will be necessary for the person requiring the adjournment to attend before the Board on the date set for the hearing and make the request, or make a formal motion for an adjournment, serve the other parties with a notice of motion, and appear before the Board to request the adjournment.

HOW CAN NEIGHBOURS AND OTHER CONCERNED CITIZENS PARTICIPATE?

Only the person to whom an order or decision of a Director is addressed may appeal that decision. However, if that person appeals, other people who feel they are affected may apply to the Board to participate in the hearing - either to support the applicant or to support the Director's action or to advance a different position.

To facilitate this, the Board requires the applicant or the Director to notify nearby property owners and tenants as well as the municipal clerk of the appeal and the date of the hearing. To participate in the appeal, neighbours and others who feel they are affected or have useful information to give to the Board, must appear at the beginning of the hearing or make a motion before the hearing to be added as parties. If a pre-hearing conference is held, they may request the right to participate at that conference.

REQUESTS FOR SPECIAL ASSISTANCE

If you need special assistance because of any language barrier, physical disability or limitation, please advise the Board in advance of the hearing and we will try to provide translation services or any special assistance you require to take part in the proceedings.

COMMUNICATION WITH BOARD MEMBERS

Under no circumstances should the applicant, the Director, or other parties attempt to discuss the appeal with Board members, except with the consent of or in the presence of all other parties. If parties require clarification of Board procedures or other information, the Board Secretary and staff will assist.

PROCEEDINGS BEFORE THE HEARING COMMENCES

STAY APPLICATIONS

Orders and decisions of a Director take effect as soon as they are issued. Even though they are being appealed, they must be complied with immediately, unless the Board issues a stay order. A stay postpones this legal obligation to implement all or part of Director's order or decision. If a Director has refused to issue a Certificate of Approval, the Board cannot stay the Director's decision; that is, the Board cannot order the Director to issue the certificate before holding its hearing. But, if an order has been issued, an approval has been suspended or revoked, or conditions have been attached to an approval, those actions can be stayed.

To request a stay, an applicant must send a letter setting out the reasons a stay is required. The applicant must then arrange a hearing of the stay application. This is done by serving the Director with affidavits setting out the evidence in support of the application. Then the applicant must set up a conference call between the applicant, the other parties and the Board Secretary. During this conference call the Board Secretary will discuss with the parties how long the parties will need to respond to each other's affidavits, the procedure for cross-examining witnesses about the information in their affidavits, and the time and place for hearing the stay application. When the parties have agreed on a date, time and location for the stay hearing, the applicant must serve the Director and any other parties with a formal notice of motion and file a copy with the Board. This notice of motion will set out the grounds for requesting a stay, and the date, time of day, and location of the stay hearing. The Director may file affidavit materials in response to the applicant's affidavits.

OTHER MOTIONS

Any party that feels that a question should be addressed before the hearing begins to make the hearing itself go more smoothly may make a motion to have a hearing on the question the party has raised. For example, if parties feel that to prepare adequately for the hearing they need more information about another party's case, they can make a motion requesting the party to provide this information. If the other party does not voluntarily provide the requested information, the Board can be requested by motion to hold a hearing. At the hearing the Board will decide whether to order the other party to provide the information.

To make a motion, you should contact the Board staff and request a date for the motion to be heard. If the Board staff agree that your request can be dealt with appropriately through a motion, and there is enough time to schedule a hearing of the motion before the date set for the hearing of the appeal, they will give you a date for a hearing and advise you of the procedure for setting up a hearing of your motion.

PRE-HEARING CONFERENCES

In complicated cases, the Board may hold one or more pre-hearing conferences. This pre-hearing conference may be requested by any of the parties or required by the Board itself. The purpose of the pre-hearing conference is to discuss the procedure to be followed at the hearing and to arrange for the parties to exchange documents and other information, as well as provide witness statements to each other, which summarize the evidence each witness is expected to give. Other matters which may be discussed include how long the hearing will last as well as where and when it will be held.

Persons who wish to be recognized as parties should attend the pre-hearing conference and request party status. This will allow them to obtain the information they will need to participate fully in the hearing itself. If a person is accepted as a party at the pre-hearing conference, it is likely that the person will be made a party for the hearing itself. Although the decision of the Board at the pre-

hearing conference to grant or not grant party status may be reversed by the panel hearing the appeal, this happens only in exceptional circumstances.

SETTLEMENT CONFERENCES

The Board may also try to settle some or all of the issues. This can be done as part of a pre-hearing conference or in a separate settlement conference.

SHARING INFORMATION

The Board expects all parties to share information before the hearing begins, so that no one will be taken by surprise. The Board's guidelines require all parties to notify each other at least 15 days before the hearing of all documents in their possession that may be relevant - whether or not the party having the document intends to rely on it at the hearing. The guidelines also require the parties to send each other free of charge any documents they do intend to use at the hearing. If a party requests a copy of any other document on the list of documents in a party's possession, it must be made available at a reasonable cost.

In addition, in more complicated hearings, the Board may require parties to give each other witness statements or answer interrogatories. Witness statements summarize the evidence that each witness will give at the hearing and list any reports, studies or other documents the witness will use to support his or her evidence. Interrogatories are written requests for information that are put by one party to another. They may be helpful in clarifying witness statements, or assisting a witness to do some research or make a calculation needed to answer a question, or to put non-controversial information on the record quickly.

PREPARING FOR THE HEARING

OPENING STATEMENT

You should prepare a very brief statement of the issues or reasons why you are before the Board, as you will be asked to present this at the beginning of the hearing.

PAPERS

You should bring copies of all papers and documents to support your case. The Board recommends that if you have several different documents, such as letters, reports, maps, etc., to present at the hearing, you gather them together with numbered tabs between the documents and present them in some type of a binding or binder, so the documents will not be scattered or lost. Be sure you have enough copies of all documents for each member of the Board, the court reporter (if any), and all the parties. It is preferred that the original document be submitted for use as the designated official exhibit, but this will not always be necessary, depending on the circumstances. It is the responsibility of the person submitting any document to ensure that enough copies are available for each of the parties and each Board member.

PHOTOGRAPHS

Photographs are also very helpful to explain your evidence. For example, if you have been refused a certificate of approval to install a sewage system, you may want to show the Board pictures of your property to illustrate your points.

Keep in mind that all papers and photographs will be entered as exhibits and retained by the Board until the appeal period is past.

WITNESSES

You may wish to bring witnesses. Make sure your witnesses understand what is expected of them, that they will be required to give testimony under oath or solemn affirmation, and they will be subject to cross-examination by all other parties.

Should a person who you feel could give evidence to support your case be reluctant to be a witness or refuse to appear, you may request the Board to subpoena that person. If this is necessary, contact the Board Secretary who will advise you of the appropriate procedure. Remember that a witness who appears under duress may not be a good witness on your behalf. Sometimes, however, witnesses are willing to testify, but require a subpoena to take the time off work.

MUST A PERSON

HAVE A LAWYER OR OTHER REPRESENTATIVE?

Participants in an appeal may appear on their own or with the assistance of other persons. You do not need to have a lawyer to represent you at a hearing. People often appear before the Board without legal counsel, an agent or representative. However, if legal issues are involved you may want to obtain the advice and/or the assistance of a lawyer. You may wish to have some person other than a lawyer act as your representative or agent to present your case before the Board. This is fine provided that the person is competent to perform this task. Cases are sometimes presented more effectively if the person appealing and other parties are represented by someone who is familiar with the legislation and the quasi-judicial procedures followed at Board hearings.

LANGUAGE OF HEARINGS

The hearing may be conducted in either official language. It will be conducted in English unless a request is made for it to be conducted in French. Should a witness wish to testify in any language other than English, arrangements must be made with the Board Secretary to ensure the availability of a bilingual panel of the Board or for the use of an interpreter.

WHERE ARE THE HEARINGS HELD?

In most instances, the Environmental Appeal Board holds the hearing in a community close to the site affected by the Director's order or decision. Hearings usually commence at 9:00 a.m. and continue

until 5:00 p.m., with a suitable luncheon break. Some hearings will take part of one day while others will last for many days.

WHO WILL ATTEND THE HEARING?

A panel of three members of the Environmental Appeal Board may hear the appeal or the Board chairperson or vice-chairperson may authorize one member to hold the hearing. Usually the Board staff will tell the parties prior to the hearing whether one member or three will conduct the hearing, so that the parties will bring enough copies of all documents they intend to use for each Board member.

WILL THERE BE A TRANSCRIPT OF THE HEARING?

Sometimes, the Board will arrange for a court reporter to be present. The reporter will record the proceedings and on request will produce a written record (transcript) of the proceedings. Any person may order a copy of the transcript of the proceedings from the court reporter. If the Board does not intend to arrange for a court reporter, it will notify the parties, so that they may arrange for one at their own expense if they feel that a verbatim record of the proceedings is necessary. Parties may bring tape recorders to record the proceedings, as long as this is done in a way that does not interfere with the hearing. However tape recorders may not "pick up" clearly everything that is said, and a court or the Minister may not be willing to accept a transcript of a tape made by one of the parties for use in an appeal of the Board's decision.

PARTIES

The Director of the Ministry of the Environment (or of the Public Health Unit) and each person making the appeal are automatically "parties" to the hearing. The Board has the authority to specify additional persons as parties to the hearing. Any person who wishes to call witnesses, to cross-examine witnesses and to make statements and submissions should request to be made a party to the hearing. Parties have the right to appeal the final decision of the Board.

Any person who wishes to testify, or give a statement under oath that is relevant to the hearing need not be specified as a party. Any such person should make his or her presence and desires known to the Board when the hearing starts.

The Environmental Appeal Board conducts its hearings in a court-like manner but its procedure is not quite as formal as a court. The Board receives its authority from the acts as well as from the Statutory Powers Procedure Act. This act sets out the rights of the parties and minimum rules or procedure that the Board must follow. It also gives the Board the authority to set its own procedures.

WHAT HAPPENS AT THE HEARING?

At the beginning of the hearing the chairperson of the panel of the Environmental Appeal Board will explain the hearing process in an opening statement. He or she will explain the procedure for that hearing, and request the applicant (the person that has applied for the appeal hearing), and the Director (or their representatives - which could be legal counsel), to identify themselves for the purposes of the hearing and the record.

The chairperson will also ask if there are other persons present who wish to be specified as parties to the hearing. Persons wanting to become parties to the hearing should be prepared to explain, at that time, their interest in the proceedings and how they intend to participate; for example, whether they want to call witnesses, or just have an opportunity to cross-examine witnesses called by the applicant and the Director. Sometimes the applicant or the Director may object to the addition of other persons as parties. However, the Board has the authority to make the final decision as to who will be parties to the hearing.

Once the parties are identified, the Chairperson will ask the parties in turn to give a very brief opening statement outlining what they feel are the issues in the case before the Board, a brief summary of the evidence they intend to call, and the names of the witnesses that they intend to present and the amount of time they feel they will require to present their case.

The Director will usually present his or her case first. At the conclusion of the examination of each of the Director's witnesses, the applicant and any other parties in turn are given an opportunity to cross-examine the evidence given by the witness. Upon completion of the cross-examination of each witness, the Director is entitled to re-examine the witness on any issue which arose for the first time during the cross-examination of the witness.

If there are several other parties, in addition to the applicant and the Director, the Board may ask the other parties to put their questions and arguments through one spokesperson to avoid duplication and save time.

When all the Director's evidence has been presented, other parties whose interests or concerns are similar to those of the Director will be given an opportunity to present their case following the same procedures. Cross-examination will be allowed of any evidence presented.

Next, the applicant will present his or her case, by testifying and calling other witnesses to testify. Then other parties whose interests or concerns are similar to those of the applicant will present their case.

Finally, the parties will be given an opportunity to present any additional evidence that arises out of the evidence of the other parties. This rebuttal will be limited to evidence that they could not reasonably have been expected to anticipate during their initial presentation of evidence.

When all the evidence has been heard, each party will be entitled to make a final submission. This submission gives the parties a chance to summarize the important facts on which the parties are relying as well as any points of law or policy which they think are relevant for the Board's consideration, and to persuade the Board to accept their argument or position.

If the hearing is not completed within one day, then the chairperson will adjourn the hearing to the next date when all the parties and the Board member, or members, are available. This could be the following day, or another date set by the Board.

MEDIA

Occasionally, there may be some media coverage of the case. Journalists will sometimes make notes of the hearing. T.V. and radio recordings of the proceedings may be permitted at the discretion of the presiding chairperson. When Board proceedings are recorded, the Board usually requires the media representatives to place their equipment at the back or side of the hearing room, to remain in one place, and to be unobtrusive.

THE DECISION OF THE BOARD

After considering the evidence and submissions, the Board will give a decision. The Board may give an oral decision at the conclusion of the hearing, or it may reserve its decision and issue a written one at a later date. An oral decision given at a hearing is always confirmed in writing. A written confirmation of an oral decision may not be in precisely the same words as the oral decision. It may clarify, elaborate or expand on the reasons given orally, but it will not change the essence or intent of the oral decision. If an oral decision is given at the hearing, the Board's guidelines provide that the time limit for appealing the Board's decision runs from the time of the written decision, not from the day the oral decision was given. The Board attempts to set out the reasons for its decision in a manner that will make clear to the parties why the Board decided in favour of one party rather than the other.

Generally, a decision can be expected within two months after the hearing. However, some cases are complex or require additional evidence or submissions. Decisions in these cases may take longer.

DISTRIBUTION

Written decisions and written confirmations of oral decisions are sent by mail to all parties, or to their counsel or agents, and to the Minister of the Environment. All Board decisions are public documents and anyone may request a copy of any decision from the Board. There may be a small fee to cover the cost of photocopying the decision.

CAN I APPEAL THE BOARD'S DECISION?

Any party to a hearing before the Board may appeal in writing to the Minister of the Environment on any matter other than a question of law. The Minister of the Environment must then confirm, alter or revoke the decision of the Board as the minister may consider is in the public interest. This appeal must be made within 30 days after receiving the Board's decision or within 30 days after any decision of the Divisional Court that disposes of the appeal to the Board.

Any party to a hearing before the Board may appeal a decision or order of the Board on a question of law to the Divisional Court. This appeal must take place within 15 days after the Board's decision.

WHAT OTHER RECOURSE DO I HAVE?

If you are unsatisfied with the way you are treated by the Board or its staff, try to solve the problem first by bringing it to the attention of the persons involved (bearing in mind that during a hearing Board members may not communicate with any party except in the presence of all the other parties.) If the problem is not resolved, any person who deals with the Board, whether a party to the hearing or not, who feels that he or she has been treated unfairly, by the Board or its staff, may complain to the chair of the Board, the Minister of the Environment or to the Ombudsman.

The way to challenge a Board decision is by appealing it. There are some limitations on the Ombudsman's jurisdiction over decisions of tribunals, so you should not look upon a complaint to the Ombudsman as an alternative to a formal appeal to the Minister or the court.

SUMMARY

Although the hearing is a formal process, the Board makes every effort to be flexible and to accommodate the needs of each party. Occasionally, hearings will include an evening session to allow for the attendance of participants who are not free during office hours. With prior notice, the Board can make provision for the use of French and other languages where necessary.

COSTS

Participating in a hearing invariably entails some costs. Typically these might include:

- ❖ fees for lawyers, representatives or agents
- ❖ fees for expert assistance and witnesses
- ❖ travel and accommodation expenses
- ❖ cost for materials used for presentations (such as photographs, graphics etc.)

Under current legislation the Environmental Appeal Board cannot provide financial assistance to public participants in its hearings.

The Board does not have the right to make cost awards - that is, the Board may not order that one or more parties compensate other parties for their hearing costs.

CAUTION

Each act is specific and sets out in legal wording the criteria under which the Director, the Ontario residents, and the Board must operate. We encourage you to refer to the appropriate act for specific details.

OTHER SOURCES OF INFORMATION

If you desire more detailed information, contact the Board Secretary.

Available from:

The Board Secretary

Environmental Appeal Board

112 St. Clair Avenue West, Suite #502

Toronto, Ontario

M4V 1N3

Tel: (416) 314-3300

Fax: (416) 314-3299

- ❖ Guidelines of Practice and Procedure
- ❖ the Annual Report of the Environmental Appeal Board

Available from:

Publications Ontario

880 Bay Street

Toronto, Ontario

M7A 1N8

(416) 326-5300 or 1-800-668-9938

- ❖ the Environmental Protection Act
- ❖ the Ontario Water Resources Act
- ❖ the Pesticides Act
- ❖ the Statutory Powers Procedures Act

❖ YOUR GUIDE TO THE ENVIRONMENTAL APPEAL BOARD ❖





